

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ 176-3154
Administrative Law Judge Division
June 16, 2005

R E S O L U T I O N

RESOLUTION ALJ 176-3154. Ratification of preliminary determinations of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4, and 6.1 of the Commission's Rules of Practice and Procedure. (See also Rule 63.2(c) regarding notice of assignment.)

The Commission's rules and procedures which implement the requirements of Senate Bill (SB) 960 (Leonard, ch. 96-0856) are, for the most part, found in Article 2.5 of our Rules of Practice and Procedure. The rules and procedures were adopted by the Commission in D.97-11-021, which describes more fully the background to the development of these rules. Rule 4 describes the formal proceedings to which the SB 960 rules (Article 2.5) apply. Rule 6.1 requires the Commission to preliminarily determine a proceeding's category, whether the proceeding requires a hearing, and designate an Assigned Commissioner and Administrative Law Judge. Rule 6.1(a) states that the preliminary determination of category is not appealable but shall be confirmed or changed by Assigned Commissioner's ruling. Unless and until a preliminary determination is changed by such ruling, the preliminary determination of category governs the applicability of the other reforms that SB 960 requires. Rule 63.2 provides for petitioning the Commission to reassign a proceeding to another administrative law judge. Rule 63.2(c) establishes the time for filing such a petition. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

The Categories

SB 960 makes sweeping changes in many aspects of the Commission's practices in an effort to improve the quality and timeliness of Commission decision making. It creates three categories of proceedings: adjudicatory, ratesetting, and quasi-legislative. The

applicability of many of the changes it requires depends upon the category assigned to the proceeding. For example, the ex parte rules which apply differ if the proceeding is categorized as adjudicatory rather than quasi-legislative. The Legislature defined each of these procedural categories in Section 7 of SB 960. Consistent with these definitions, the rules provide that:

“‘Adjudicatory’ proceedings are: (1) enforcement investigations into possible violations of any provision of statutory law or order or rule of the Commission; and (2) complaints against regulated entities, including those complaints that challenge the accuracy of a bill, but excluding those complaints that challenge the reasonableness of rates or charges, past, present, or future.

“‘Ratesetting’ proceedings are proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities). ‘Ratesetting’ proceedings include complaints that challenge the reasonableness of rates or charges, past, present, or future. For purposes of this Article, other proceedings may be categorized as ratesetting as described in Rule 6.1(c).

“‘Quasi-legislative’ proceedings are proceedings that establish policy or rules (including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry.” (Rules 5(b), 5(c), and 5(d).)

Mixed or Unclear Category Proceedings

For a proceeding that may fall into more than one category, the rules allow parties to recommend that the Commission pick the most suitable category, or to recommend dividing the subject matter of the proceeding into different phases or one or more new proceedings, each with its own category. The rules provide that a proceeding that does not clearly fit into *any* of SB 960’s defined categories will be conducted under the rules applicable to the ratesetting category. As such a proceeding matures, the Commission may determine that the rules applicable to one of the other categories, or some hybrid of those rules, would be better suited to the proceeding.

As stated in D.97-06-071, ratesetting proceedings typically involve a mix of policymaking and factfinding relating to a particular public utility. Because proceedings that do not clearly fall within the adjudicatory or quasi-legislative categories likewise typically involve a mix of policymaking and factfinding, the ratesetting procedures are, in general, preferable for those proceedings.

Next Steps

As stated above, this preliminary determination of category is not appealable. Once interested parties have had an opportunity to respond to the initiating party's proposed category, the preliminary determination shall be confirmed or changed by Assigned Commissioner's Ruling pursuant to Rule 6(a)(3). This Assigned Commissioner Ruling may be appealed to the full Commission pursuant to Rule 6.4(a). Parties have 10 days after the ruling is mailed to appeal. Responses to the appeal are allowed under Rule 6.4(b), and must be filed and served not later than 15 days after the ruling is mailed. The full Commission will consider the appeal.

Any party, or person or entity declaring an intention to become a party is entitled to petition for reassignment of the proceeding to another Administrative Law Judge, as described in Rule 63.2. Such a petition must be filed no later than 10 days after notice of the assignment. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

Conclusion

The Commission has reviewed the initial pleading of the utility applicants listed in the attached schedule and has made a preliminary determination of category and need for hearing, consistent with the requirements and definitions of Article 2.5 of its rules.

IT IS ORDERED that each proceeding listed in the attached schedule is preliminarily categorized, and the need for a hearing is noted.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on June 16, 2005, the following Commissioners voting favorably thereon:

STEVE LARSON
Executive Director

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN
SUSAN P. KENNEDY
DIAN M. GRUENEICH
JOHN A. BOHN
Commissioners

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3154 (6/16 /05)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A05-05-021 NEWPATH NETWORKS, LLC, for a modification to its certificate of public convenience and necessity in order to provide competitive local exchange, access and non-dominant interexchange services.	Ratesetting	Ratesetting	NO
A05-05-022 NETWORK SERVICE BILLING, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
A05-05-023 SOUTHERN CALIFORNIA EDISON COMPANY, to establish marginal costs, allocates revenues, and design rates.	Ratesetting	Ratesetting	YES
A05-05-025 MISSION TELECOM, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
A05-05-026 "SHELL" TRANSPORT AND TRADING COMPANY, P.L.C., N.V. KONINKLIJKE NEDERLANDSCHE PETROLEUM MAATSCHAPPIJ (ROYAL DUTCH PETROLEUM COMPANY), ROYAL DUTCH SHELL PLC, SHELL CALIFORNIA PIPELINE COMPANY, LLC, pursuant to P.U. Code Section 854(a) for expedited, ex parte authorization to transfer control of Shell California Pipeline Company, LLC.	Ratesetting	Ratesetting	NO
A05-05-029 PACIFIC GAS AND ELECTRIC COMPANY, for modification of Resolution E-3929.	Ratesetting	Ratesetting	NO
A05-06-002 CITY OF ORINDA, PACIFIC GAS AND ELECTRIC COMPANY (U 39-E), for expedited approval under Public Utilities Code Section 851 to Quitclaim a Portion of a 115kV Transmission Line Easement to the City of Orinda.	Ratesetting	Ratesetting	NO
A05-06-003 SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E), for order Approving Contracts to Secure Additional Capacity for System Reliability in SP-15.	Ratesetting	Ratesetting	YES

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3154 (6/16 /05)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A05-06-004 PACIFIC GAS AND ELECTRIC COMPANY (U 39-E), for approval of the 2006 - 2008 Energy Efficiency Programs and Budget.	Ratesetting	Ratesetting	NO
A05-06-005 PACIFIC GAS AND ELECTRIC COMPANY (U 39-E), for approval of the 2006 and 2007 California Alternate Rates for Energy and Low Income Energy Efficiency Programs and Budgets.	Ratesetting	Ratesetting	NO
A05-06-006 PACIFIC GAS AND ELECTRIC COMPANY (U 39-E), for approval of 2006 - 2008 Demand Response Programs and Budgets.	Ratesetting	Ratesetting	YES
A05-06-007 PACIFIC GAS AND ELECTRIC COMPANY (U 39-E), for Adoption of its 2006 Energy Resource Recovery Account (ERRA) Forecast Revenue Requirement and for Approval of its 2006 ongoing competition transition charge (CTC) Revenue Requirement and Rates.	Ratesetting	Ratesetting	YES
A05-06-008 SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E), for Approval of Demand Response Programs for 2006 - 2008 and Cost Recovery Mechanism.	Ratesetting	Ratesetting	YES
A05-06-009 SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E), for Approval of Low Income Assistance Programs and Budget for Program Years 2006 and 2007.	Ratesetting	Ratesetting	NO
A05-06-011 SOUTHERN CALIFORNIA GAS COMPANY (U 904-G), for approval of Natural Gas Energy Efficiency Programs and Budgets for Years 2006 through 2008.	Ratesetting	Ratesetting	NO
A05-06-012 SOUTHERN CALIFORNIA GAS COMPANY (U 904-G), for approval of Low Income Assistance Programs and Budgets for Program Years 2006 and 2007.	Ratesetting	Ratesetting	NO
A05-06-013 SAN DIEGO GAS & ELECTRIC COMPANY (U 902-E), for approval of Low Income Assistance Programs and Budgets for Program Years 2006 and 2007.	Ratesetting	Ratesetting	NO

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3154 (6/16 /05)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A05-06-014 SAN DIEGO GAS & ELECTRIC COMPANY (U 902-E), for Approval of (1) Contract Administration, Least Cost Dispatch and Power Procurement Activities; and (2) Costs and Expenses related to those activities recorded to the Electric Resource Recovery Account, incurred during the record period October 1, 2003 through December 31, 2004 .	Ratesetting	Ratesetting	YES
A05-06-015 SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E), for Approval of its 2006 - 2008 Energy Efficiency Program Plans and associated Public Goods Charge (PGC) and Procurement Funding Requests.	Ratesetting	Ratesetting	NO
A05-06-016 SAN DIEGO GAS & ELECTRIC COMPANY (U 902-E), for Approval of Electric and Natural Gas Energy Efficiency Programs and Budgets for Years 2006 through 2008.	Ratesetting	Ratesetting	NO
A05-06-017 SAN DIEGO GAS & ELECTRIC COMPANY (U 902-E), for Approval of Demand Response Programs and Budgets for Years 2006 through 2008.	Ratesetting	Ratesetting	YES
A05-06-018 SIERRA PACIFIC POWER COMPANY (U 903-E), for General Rate Relief and for Authority to Increase its Electric Rates and charges for Electric Service.	Ratesetting	Ratesetting	YES
A05-06-020 CITY OF GLENDALE, for authority to construct an at- grade crossing of Flower Street across the Los Angeles County Metropolitan Transportation Authority's main line tracks in the City of Glendale, Los Angeles County.	Quasi- legislative	Ratesetting	NO
A05-06-021 BENKO YOURIEV AND BLAGO OGNIANOV, GULSEN M. YAKUBOVA, Application for authorization to transfer control of North Bay Airport Express Shuttle, Inc. (PSC-15705), pursuant to Section 854 of the Public Utilities Code from Benko Youriev and Blago Ognianov to Gulsen M. Yakubova.	Ratesetting	Ratesetting	NO

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3154 (6/16 /05)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A05-06-022 U.S. WEST SHUTTLE LLC, for authority to operate as a scheduled Passenger Stage Corporation between the Los Angeles International Airport and San Gabriel California (Route One); and between points in downtown Los Angeles, San Gabriel, El Monte and Rowland Heights, California (Route Two); and to establish a Zone of Rate Freedom.	Ratesetting	Ratesetting	NO
A05-06-023 COUNTY OF KERN, for an order authorizing construction of a crossing at separated grades between Seventh Standard Road and the tracks of the Union Pacific Railroad, sometimes referred to as the "Seventh Standard Road Overhead," (PUC No. B-305.9A).	Adjudicatory	Ratesetting	NO